

# Effective Teaching about other Cultures and Legal Systems

By

Associate Prof Datin Noor Aziah Mohd Awal

Faculty of Law

Universiti Kebangsaan Malaysia

## Introduction

Malaysia being multi-racial and multicultural had a head start in teaching about other cultures and legal systems. Being multicultural, its legal system is pluralistic in nature and rich in a number of sources of laws. In order for students to understand the present laws they must be able to appreciate the past. This paper will look at the effective teaching about other cultures in teaching laws. It will look at the various approaches taken in ensuring that the students will be able to appreciate the differences of these cultures and legal systems.

### (a) Introduction of Compulsory subjects

Introduction Malaysia Legal system and Introduction Islamic Legal System are being taught as compulsory subjects in year one in all government funded law schools. In fact some private law schools have also started to introduce these subjects as compulsory paper even though their students are doing a twinning programme with a foreign university or an external program, like the University of London, LLB External. These two subjects give students a very wide background to sources of laws and the different cultures that are in built within the Malaysian legal systems. Many of the judgments made in Malaysia by English judges take into consideration the local circumstances and local customs. For example in the case of **The Six Widow**(1908) 12 SSLR 1208, the Court held that a customary polygamous marriage practiced by Chinese in Malaya at that time was valid even though such marriage was contrary to public policy in England. In the case of **Ramah v Laton** (1927) 6 FMSLR128, the English Court accepted for the first time that Islamic law was the law of land and shall be applicable to Muslims in Malaysia(Malaya at that time). This was case of division of matrimonial property where in accordance to Malay custom, a wife upon divorce, has a right to a half share of all matrimonial properties acquired during their marriage. It is a recognized rights that a Malay woman is entitle to property *feme sole* and no marriage can deny her of such rights. In fact upon marriage she is given a right to sue for matrimonial property upon death of her husband or divorce. Her share is usually half if she contributed to the acquisition of the property or one third if she does not.

The two cases are among the few examples about learning other cultures in Malaysia. Hence a law student in Malaysia should be able to appreciate the Malay, Chinese and Indian customs as they represent the bigger portion of the population. Of course in the Borneo states of Sabah and Sarawak, there exist until today the Native Courts where customary law of the natives are applicable. Again, students are given an introduction of different tribes and the customs they practiced.

**(b) Encouraging students research- project paper**

Apart from teaching and giving little background to Malaysian multi-cultural society, students are encourage to do mini projects or research work. In UKM, project paper is compulsory where students are required to write a small project between 15,000 to 20,000 words. This is done by year three students. The topics are of students’ choice, so long as it has not been written before. Students are encouraged to research and write about their customary law and how it has evolved and remained to be applicable in the modern world. It certainly enriches the data collections and make amends to some historical writings as some of these research may unveiled some realities and truth from what had been written in history books years ago.

Apart from writing mini projects students have to write assignment for almost all subjects. Assignments for Introduction to Malaysian Legal System, Family laws, and land law may include research work about other cultures and laws. This is because these laws are still applicable in Malaysia and had become an important source of laws.

**(c) Comparative studies.**

Most undergraduate subjects are comparative in nature. The pluralistic legal system have encouraged the comparative method of teaching. Most subjects are taught simultaneously, as follows:

Conventional Subject	Islamic laws
Malaysian Legal System	Islamic Legal system
Law of contract	Muamalat –Islamic Contract
Criminal law	Islamic Criminal law
Law of Tort	Islamic law of tort
Family Law	Islamic banking
Banking	Islamic Insurance
Insurance	Islamic Family Law
Jurisprudence, etc	Islamic Jurisprudence

At postgraduate level comparative law subjects offered are:

- a. Comparative Constitutional law;
- b. Comparative Family Law;
- c. Comparative Jurisprudence;
- d. Gender and law
- e. Advance Intellectual Property law;
- f. Advance IT Law

Most subjects are taught in a comparative manner, i.e. compare to the law in another country like England, Australia, New Zealand and India. All subjects will look at the position under Islamic laws in Malaysia and one other Muslims country like Egypt, Jordan or Iran. Many lecturers also make a comparison with another ASEAN countries like Indonesia, Singapore or Brunei. Of course it is much easier to make a comparative study with another 'common law' country rather than a 'civil law' country.

#### **(d) Own initiative when teaching about other cultures and legal systems**

Personally, I am only willing to embark on a comparative study of any subject if I had some knowledge of the country legal systems. In order to do this, I need to be in that other country, and had done a ground research there. At present I am teaching Comparative Family Law where I compare the family laws in Malaysia, New Zealand and England. I am comfortable to teach the subjects as I had done all my studies in England (10 years) and had a year teaching and researching in New Zealand. It is undeniably true that one can get almost all information from the internet but it is never the same if one actually experienced it. I am also currently supervising students from Indonesia on Islamic law of succession and customary law of succession. I have from time to time visited Indonesia and had various discussions with my counterpart on the topic and had to understand Indonesian legal system. Inviting lecturers in from the other country as guest lecture definitely make the subjects more interesting a life. Students will be able to ask direct questions, particularly those interrelated with culture and custom of that country. With Indonesia, since its quite near, arranging student trips and exchange are some of the things that could be done to enhance the understanding of the subjects.